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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/689,584	10/22/2003	Soshchin Naum	BHT-3244-5	6101

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TROXELL LAW OFFICE PLLC  
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5205 LEESBURG PIKE  
FALLS CHURCH, VA 22041

EXAMINER

WALFORD, NATALIE K

ART UNIT PAPER NUMBER

2879

DATE MAILED: 07/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Notice of Allowability**

*Supplemental Allowance*

Application No.

10/689,584

Examiner

Natalie K. Walford

Applicant(s)

NAUM ET AL.

Art Unit

2879

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 3/31/06.
2. ☒ The allowed claim(s) is/are 1-12.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All b) ☐ Some\* c) ☐ None of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
  - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
    - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
  - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date \_\_\_\_\_
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_.

## DETAILED ACTION

### *Election/Restrictions*

Applicant's election without traverse of Group I, claims 1-11, in the reply filed on March 31, 2006 is acknowledged.

As per the phone call with Bruce Troxell on June 27, 2006, the Examiner has made further consideration regarding the allowable subject matter.

Claims 1-11 are directed to an allowable product. Pursuant to the procedures set forth in MPEP § 821.04(b), claim 12, directed to the process of making or using the allowable product, previously withdrawn from consideration as a result of a restriction requirement, is hereby rejoined and fully examined for patentability under 37 CFR 1.104. Claims 13-16 are directed to the invention(s) of a light emitting device do not require all the limitations of an allowable product claim, and have NOT been rejoined.

Because a claimed invention previously withdrawn from consideration under 37 CFR 1.142 has been rejoined, **the restriction requirement among groups I and II as set forth in the Office action mailed on February 7, 2006 is hereby withdrawn.** In view of the withdrawal of the restriction requirement as to the rejoined inventions, applicant(s) are advised that if any claims including all the limitations of an allowable product claim or rejoined process claim are presented in a continuation or divisional application, such claims may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application. Once the restriction requirement is withdrawn, the provisions of 35 U.S.C. 121 are

no longer applicable. See *In re Ziegler*, 443 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP § 804.01.

### EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Bruce Troxell on June 13, 2006.

The application has been amended as follows:

The Abstract has been amended as follows:

“(Y<sub>1-x-y-z-q</sub>,Gd<sub>x</sub>,Dy<sub>y</sub>,Yb<sub>z</sub>,Er<sub>q</sub>,Ce<sub>p</sub>)<sub>α</sub>(Al<sub>1-n-m-k</sub>,Ga<sub>n</sub>,Sc<sub>k</sub>,In<sub>l</sub>)<sub>β</sub>O<sub>12</sub>”.

A parenthesis is added at the beginning of the formula.

The Claims have been amended as follows:

Claims 13-16 have been cancelled.

### *Allowable Subject Matter*

Claims 1-12 are allowed over the Prior Art of record.

The following is an examiner's statement of reasons for allowance:

Regarding claim 1, the references of the Prior Art of record fails to teach or suggest the combination of the limitation as set forth in claim 1, specifically for the limitation of the inorganic fluorescent material containing compound represented by the general formula:

$(Y_{1-x-y-z-q}, Gd_x, Dy_y, Yb_z, Er_q, Ce_p)_\alpha (Al_{1-n-m-k}, Ga_n, Sc_k, In_l)_\beta O_{12}$ , wherein  $\alpha$  is in the range of about 2.97-3.02,  $\beta$  is in the range of about 4.98-5.02,  $x$  is in the range of about 0.2-0.65,  $y$  is in the range of about 0.001-0.05,  $z$  is in the range of about 0.01-0.05,  $q$  is in the range of about 0.001-0.05,  $p$  is in the range of about 0.015-0.1,  $k$  is in the range of about 0.01-0.6,  $n$  is in the range of about 0.01-0.45, and  $l$  is in the range of about 0.01-0.1.

Regarding claims 2-11, claims 2-11 are allowable for the reasons as given in claim 1, because of their dependency status from claim 1.

Regarding claim 12, the references of the Prior Art of record fails to teach or suggest the combination of the limitation as set forth in claim 1, specifically for the limitation of a process of compounding the fluorescent material represented by the general formula:

$(Y_{1-x-y-z-q}, Gd_x, Dy_y, Yb_z, Er_q, Ce_p)_\alpha (Al_{1-n-m-k}, Ga_n, Sc_k, In_l)_\beta O_{12}$ , wherein  $\alpha$  is in the range of about 2.97-3.02,  $\beta$  is in the range of about 4.98-5.02,  $x$  is in the range of about 0.2-0.65,  $y$  is in the range of about 0.001-0.05,  $z$  is in the range of about 0.01-0.05,  $q$  is in the range of about 0.001-0.05,  $p$  is in the range of about 0.015-0.1,  $k$  is in the range of about 0.01-0.6,  $n$  is in the range of about 0.01-0.45, and  $l$  is in the range of about 0.01-0.1.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Art Unit: 2879

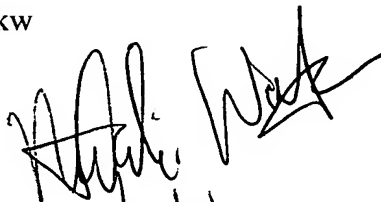
***Contact Information***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Natalie K. Walford whose telephone number is (571)-272-6012. The examiner can normally be reached on Monday-Friday, 8 AM - 4:30 PM.

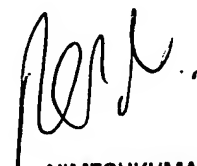
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nimesh Patel can be reached on (571)-272-2457. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

nkW



7/10/06



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